IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 2026 of 1995

ARJUN BHAI
V/S
STATE OF RAJ. & ORS.

Mr. B.S.Charan, for the appellant / petitioner

Mr.O.P.Boob, Dy. G.A., for the respondent

Date of Order : 14.5.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

The petitioner, by this writ petition, seeks to challenge the order (Annexure-11). By Annexure 11, the State Government, exercising the powers under Section 32 of the Rajasthan Gramdan Act, 1971 has divested the Gram Sabha of the power of management of the land mentioned therein, total 3055.09 Bighas. It is contended by the learned counsel for the petitioner that a look at Section 32 of the Act shows that thereunder, the power of management of the Gram Sabha can be divested only with respect to the land covered by Section 31 and Section 31 (1) shows that it applies only to Government lands lying in the revenue village which is declared as a Gram Dan village and since this land was not the land having come to Gram Sabha by virtue of Section 31, the order is without jurisdiction.

I have considered the submissions and called upon the learned counsel to point out the averments in the writ petition in that regard.

Obviously, the question as to whether a particular land coming to Gramsabha by virtue of Section 31, or otherwise, is a question of fact, and for that, necessary averment is required to be made, but the learned counsel, after going through the writ petition, frankly submitted that there is no averment in this regard in the writ petition, whether in the narration of facts, or in the grounds. In that view of the matter, in absence of basic foundation, having been laid, the contention cannot be entertained.

Apart from the above, there is yet another difficulty in the way of the petitioner, being that, under the Act, the Gram Sabha is a body corporate having perpetual and succession, and a common seal and it can sue and being sued in its corporate name. Obviously, therefore, if any grievance arose from Annex.11, it could be to Gram Sabha, admittedly, the Gram Sabha is not a party to the writ petition, and has not challenged the order. In that view of the matter, the petitioner – Arjun Bahi cannot be allowed to maintain this writ petition, simply because he happens to be the President of the said Gram Sabha, at a given point of time.

Thus, considering the case from any stand point, I do not find any merit in the writ petition. The same is, therefore, dismissed. The parties shall bear their own costs.

(N P GUPTA),J.

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